

SENATE BILL No. 588

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-204.5; IC 16-42-19.5;
IC 35-48-4-14.5.

Synopsis: Methamphetamine. Permits ephedrine and pseudoephedrine to be dispensed only at a pharmacy by a licensed pharmacist. Requires ephedrine and pseudoephedrine to be dispensed in a package that contains not more than 12 capsules. Requires a person who purchases ephedrine or pseudoephedrine to present photo identification and sign a receipt or record book. Makes unlawful dispensing of ephedrine a Class D felony. Makes the possession of more than nine grams of ephedrine or pseudoephedrine over a 30 day period a Class D felony. Exempts ephedrine or pseudoephedrine that is in liquid form or dispensed upon a prescription from the dispensing and possession restrictions.

Effective: July 1, 2005.

Weatherwax

January 20, 2005, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 588

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-204.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2005]: **Sec. 204.5. "Liquid ephedrine or**
4 **pseudoephedrine" means a drug that:**

- 5 (1) **contains ephedrine or pseudoephedrine;**
- 6 (2) **is in liquid, liquid capsule, or gel capsule form; and**
- 7 (3) **has an active ingredient in addition to ephedrine or**
8 **pseudoephedrine.**

9 SECTION 2. IC 16-42-19.5 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2005]:

12 **Chapter 19.5. Drugs: Sale of Ephedrine and Pseudoephedrine**

13 **Sec. 1. This chapter does not apply to:**

- 14 (1) **liquid ephedrine or pseudoephedrine; or**
- 15 (2) **ephedrine or pseudoephedrine dispensed upon a**
16 **prescription.**

17 **Sec. 2. A person may not sell a drug containing ephedrine or**

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pseudoephedrine unless:

- (1) the drug is dispensed at a pharmacy having a valid pharmacy permit;
- (2) the drug is dispensed by a licensed pharmacist; and
- (3) the purchaser:
 - (A) presents valid photo identification containing the purchaser's date of birth; and
 - (B) signs a receipt or record book showing the:
 - (i) date of the transaction;
 - (ii) name of the purchaser; and
 - (iii) amount of the drug purchased.

Sec. 3. A person may not sell a drug containing ephedrine or pseudoephedrine in a package containing more than twelve (12) capsules.

Sec. 4. A person who knowingly or intentionally violates section 2 or 3 of this chapter commits unlawful sale of ephedrine or pseudoephedrine, a Class D felony.

Sec. 5. The Indiana board of pharmacy may adopt rules under IC 4-22-2 to implement and enforce this chapter.

SECTION 3. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) This section does not apply to the possession of:

- (1) liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5); or
- (2) ephedrine or pseudoephedrine that is dispensed upon a prescription.

~~(a)~~ (b) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.

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- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.

However, the term does not refer to liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5).

(b) (c) A person who knowingly or intentionally possesses in total over a thirty (30) day period:

- (1) more than ~~ten (10)~~ **nine (9)** grams of ephedrine, pseudoephedrine, or phenylpropanolamine, **or** the salts, isomers, or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine; or
- (2) a combination of any of ~~these the~~ substances ~~exceeding ten (10)~~ **described in subdivision (1) that weighs more than nine (9)** grams;

commits a Class D felony.

However, the offense is a Class C felony if the person possessed:

- ~~(1) a firearm while possessing more ten (10)~~

(d) A person who possesses a firearm while knowingly or intentionally possessing more than nine (9) grams of:

- (1) ephedrine, pseudoephedrine, or phenylpropanolamine, **or** the salts, isomers, or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine; or
- (2) a combination of any of ~~these the~~ substances ~~exceeding ten (10)~~ **grams; or**
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine; the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine; or a combination of any of these substances exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

described in subdivision (1);

commits a Class C felony.

(e) A person who knowingly or intentionally possesses more than nine (9) grams of:

- (1) ephedrine, pseudoephedrine, or phenylpropanolamine, **or** the salts, isomers, or salts of isomers of ephedrine,

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pseudoephedrine, or phenylpropanolamine; or

(2) a combination of any of the substances described in subdivision (1);

within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center commits a Class C felony.

~~(c)~~ (f) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

~~(d)~~ Subsection (b) does (g) Subsections (c) through (e) do not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ~~ten (10)~~ nine (9) grams of a substance described in ~~subsection (b)~~ subsections (c) through (e) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;

(B) the possession of the substance in a variety of:

(i) strengths;

(ii) brands; or

(iii) types; or

(C) the possession of the substance:

(i) with different expiration dates; or

(ii) in forms used for different purposes.

~~(e)~~ (h) A person who possesses two (2) or more chemical reagents

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or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- (2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
- (3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

~~(f)~~ (i) An offense under subsection ~~(e)~~ (h) is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

~~(g)~~ (j) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 4. [EFFECTIVE JULY 1, 2005] IC 35-48-4-14.5, as amended by this act, applies only to crimes committed after June 30, 2005.

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